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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE HONORABLE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of

Robert J. Manard, et al.

Application No.: 10/040,989

Examiner: Jeffery A. Brier

Filed: January 7, 2002

Docket No.: A1167-US-NP
XERZ 2 00448

For: PIXEL COLOR MAP OPERATOR INTERFACE

APPELLANTS' REPLY BRIEF UNDER 37 CFR 41.41

Appeal from Group 2628

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A. Summary of the Claimed Invention and the Reference of Record.

The Applicant believes the present appeal has been necessitated by a misunderstanding of the inventive aspect of the Applicant's invention. Particularly, the intent of the present application is very different from the Bartok reference as stated in the claims, and as will be expanded upon below. This is most easily seen with reference to attached FIGURES 1-3 of the present application and FIGURE 2 of Bartok.

The Examiner maintains both Bartok and the present application use the color of a hotspot to determine the function the computer will perform when a user selects the hotspot. e.g. *Examiner's Answer*, page 9. This, however, is irrelevant to how the hotspots are developed. It is what happens *before* the hotspots are connected to functions that distinguishes the present application from Bartok. While the image is being set up, that is, when the hotspots are being *defined* Bartok and the present application differ. A concept of the present application as claimed is the user wants to designate a color as a hotspot (color is the desired "region"). In Bartok, the user wants to designate a region as a hotspot, and uses color as a means to do so. This significant difference is the root of the present appeal.

1. The Present Application

In both Bartok and the present application, the image (color map) must be set up, that is hot spots must be created before a user can execute functions using the hotspots. A summary of the operation of the present application as recited in the claims is now presented, later to be contrasted with the operation of Bartok. In the present

application, an image is first selected. The image can be prefabricated or created on the spot. Next, the user selects at least one color the user desires to be designated as a hotspot. The computer then finds all instances of that color (or colors) in the image and designates them as hotspots. This includes regions discontinuous with the region containing the color originally selected, as recited in claims 10 and 17. Then a computer function is mapped to the hotspot. The present application creates the hotspot based on **color**.

Now that the image has been set up, the user clicks a portion of the image. The computer reads the color at the point of the click, and looks up the color to see if it has been designated as a hotspot. If the color is a hotspot, then the computer executes the function tied to that color.

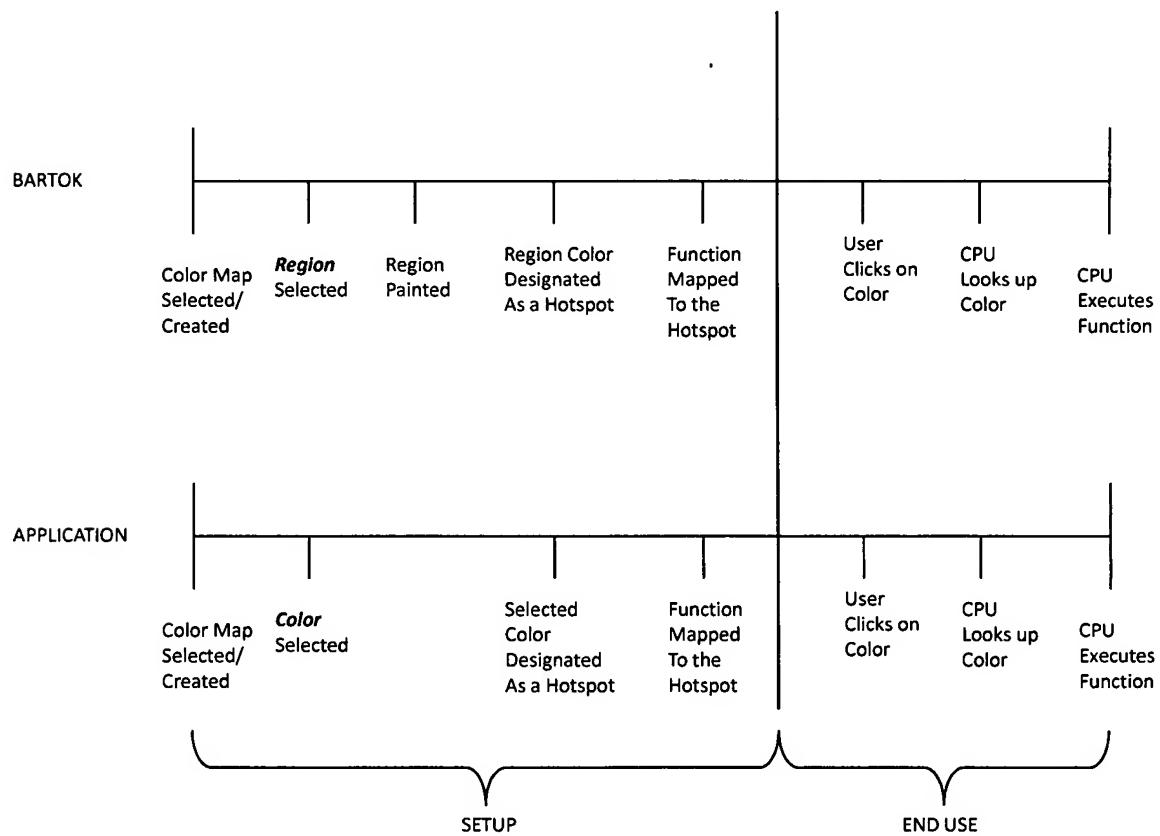
2. The Bartok Reference

The setup portion of Bartok is different. Like the present application, the user selects an image for use as the pixel color map. Again, the image can be prefabricated or created on the spot. The user selects a region (or regions). The user or the computer then selects a unique color for that region, and paints the selected region that color.¹ That unique color is then designated a hotspot. The color is then mapped to a computer function. Bartok, in contrast with the present application, first defines the

¹ The Examiner contends the painting step is not mandatory, and the original color(s) of the region selected can be designated the hotspot. The Applicant respectfully contends this would thwart the intention of Bartok. Take, for example, figures 2 and 3 of Bartok. Say the user defines the cards of the rolodex 74 as his region. If the cards are white, and they stay the same color, then all other instances of white will perform the same function as the rolodex cards. Perhaps the paper coming out of the printer 86 is also white, or the boxes 83 on the calendar are also white, or any random spot in the background is also white. It would be undesirable to have the rolodex function being performed when any of those regions are selected. Mapping all instances of the color of the region after the user has designated a **region** they want to be a hotspot would lead to undesirable results. Painting the region a unique color avoids this problem.

geographical region, such as the telephone, rolodex, computer, typewriter, etc. in Bartok's FIGURE 2, then assigns it a color.

When in use, now that the image has been set up, the user clicks a portion of the image. The computer reads the color at the point of the click, and looks up the color to see if has been designated as a hotspot. If the color is a hotspot, then the computer executes the function that is tied to that color.



B. The Examiner's Arguments

The Examiner is not incorrect when he states both Bartok and the present application use only the color to look up and execute a computer function. This is noted in the above timeline that the “end use” portions of the timelines are the same. Once the hotspots have been created, only color is used to determine function. It is in the “setup” portions where Bartok uses position, and the Applicant does not. Thus, while the Examiner’s arguments, both during prosecution and in the Examiner’s Answer, are more true when referring to end use, they fail when referring to the setup of the image. They fail when the hotspots are being created.

It is in the context of the critical step of when the hotspots are being set up the Applicant urges the Board to consider the Applicant’s and the Examiner’s arguments. While the Applicant initially uses color to designate the hotspot, Bartok initially uses position, then translates position to color. Bartok fails to teach initially designating the hotspot by color. Take, for example, FIGURE 1 of the present application, a 5x5 grid of squares arranged in a checkerboard pattern. Traditionally, as in Bartok, the user would need to set up twenty-five different areas as hotspots for only two actions (one action tied to the light squares, and a second action tied to the colored squares). The present application can produce the same functionality, but with only two areas. The end result of both the traditional (Bartok) method and the Applicant’s method would be similar, that is, the light squares performing one action and the colored squares performing another, but the Applicant’s method does it with only two regions, where Bartok would require twenty-five regions.

Referring now to Applicant's FIGURE 3, this image would be difficult to map using a traditional selection process, as in Bartok. With the present application, it is no more difficult than setting up the checkerboard as in FIGURE 1.

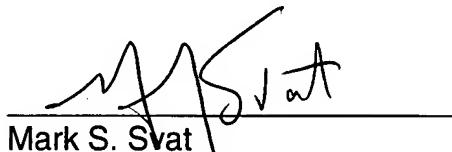
C. 35 U.S.C. §102

In order for an applicant to be denied a patent under §102, every aspect of the claimed invention must be taught in a single prior art reference. During prosecution and in the Applicant's Appeal Brief, the Applicant has pointed out the sections of the claims that embody the concept outlined above, which is not present in Bartok. Since Bartok fails to teach these claimed aspects, it is respectfully requested that the Board reverse the §102 rejections based on the Bartok reference.

E. CONCLUSION

For all of the reasons discussed above, it is respectfully submitted the rejections are in error and claims 1-3, 6-12, 15-18, and 21 are in condition for allowance. For all of the above reasons, Appellants respectfully request this Honorable Board reverse the rejections of claims 1-3, 6-12, 15-18, and 21.

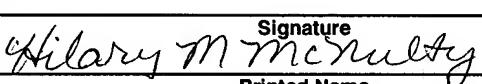
Respectfully submitted,



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CERTIFICATE OF EXPRESS MAILING		
I certify that Appellants' Reply Brief Under 37 CFR 41.41 is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated below and is addressed to Mail Stop Appeal Brief - Patents Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.		
Express Mail Label No.: EV922308773IIS	Date September 12, 2007	Signature  Printed Name Hilary M. McNulty

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